

## Message Text

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FM SECSTATE WASHDC

TO AMEMBASSY SEOUL PRIORITY

UNCLAS STATE 261472

E.O.11652, N/A

TAGS: CGEN: (SHIN YOUNG SOOL)

SUBJECT: REQUEST FOR JUDICIAL ASSISTANCE FROM SEOUL

DISTRICT CRIMINAL COURT

REF: 76 STATE A-1357

1. SEOUL DISTRICT CRIMINAL COURT REQUESTED JUDICIAL ASSISTANCE FROM USG UNDER PROVISIONS OF 28 USC 1782 IN CONNECTION WITH ITS INVESTIGATION AND PROSECUTION OF YOUNG SOOL SHIN FOR VIOLATION OF KOREA'S FOREIGN CURRENCY CONTROLS. REQUEST WAS FOR COPIES OF MR. SHIN'S TRANSACTIONS BANK OF TOKYO OF CALIFORNIA. WARRANT NUMBER (OR CASE NUMBER?) WAS 252. ORIGINAL REQUEST SENT IN 1975.

2. SHIN'S ATTORNEY VIGOROUSLY OPPOSING U.S. ATTORNEY'S MOTION UNDER 28 USC 1782 FOR ISSUANCE OF SUBPOENA DIRECTING BANK TO PRODUCE RECORDS PERTAINING TO SHIN'S ACCOUNT. GROUNDS FOR OPPOSITION ARE THAT (A) THE KOREAN COURT HAS RENDERED A VERDICT IN THE CASE, THEREBY MOOTING THE REQUEST FOR JUDICIAL ASSISTANCE, AND (B) THE VERDICT IS NOT SUBJECT TO ANY FURTHER PROCEEDINGS. 28-1782 MAKES POWER OF U.S. DISTRICT COURTS AVAILABLE ONLY TO FOREIGN UNCLASSIFIED

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TRIBUNALS BEFORE WHICH A PROCEEDINGS IS PENDING.

3. IN ORDER TO SECURE ASSISTANCE REQUESTED BY KOREAN COURT, U.S. ATTORNEY MUST SHOW DISTRICT COURT EITHER THAT JUDGEMENT HAS NOT BEEN RENDERED, OR THAT, EVEN IF ONE HAS BEEN ENTERED, THERE IS STILL A PROCEEDING PENDING BEFORE THE KOREAN COURT. DEPT HAS REQUESTED THIS INFORMATION FROM KOREAN EMBASSY, BUT SINCE HEARING ON THIS QUESTION IS SCHEDULED FOR NOVEMBER 3, REQUESTS SEOUL TO SECURE PRELIMINARY ANSWER AND INFORM DEPT PROMPTLY.

4. FYI, DEPT HAS ALSO ADVISED KOREAN EMBASSY THAT MR. SHIN HAS OBTAINED AN EXPERT IN KOREAN LAW TO TESTIFY AS TO THE FINALITY OF THE JUDGEMENT ALLGEDLY RENDERED BY SEOUL DISTRICT COURT, AND THAT SUCH TESTIMONY, IF UNREBUTTED, COULD SERIOUSLY UNDERCUT U.S. ATTORNEY'S CASE FOR ISSUANCE OF SUBPOENA. IF SOME KIND OF JUDGEMENT HAS BEEN ISSUED, AND GOK CLAIMS IT IS NON-FINAL (I.E. THAT SOME PROCEEDING IS STILL PENDING BEFORE THE REQUESTING COURT) IT SHOULD MAKE ARRANGEMENTS TO PROVIDE AN EXPERT TO TESTIFY TO THAT EFFECT. THE U.S. ATTORNEY IS NOT IN A POSITION TO COUNTER ARGUMENTS BASED ON KOREAN LAW. KISSINGER

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